



# House of Representatives

General Assembly

**File No. 436**

January Session, 2005

Substitute House Bill No. 6767

*House of Representatives, April 19, 2005*

The Committee on Public Health reported through REP. SAYERS of the 60th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING PATIENT ACCESS TO PHYSICAL THERAPY.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (2) of section 20-66 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2005*):

4 (2) "Physical therapy" means the evaluation and treatment of any  
5 person by the employment of the effective properties of physical  
6 measures, the performance of tests and measurements as an aid to  
7 evaluation of function and the use of therapeutic exercises and  
8 rehabilitative procedures, with or without assistive devices, for the  
9 purpose of preventing, correcting or alleviating a physical or mental  
10 disability. [Physical therapy] "Physical therapy" includes the  
11 establishment and modification of physical therapy programs,  
12 treatment planning, instruction, wellness care, peer review and  
13 consultative services, [The term "physical therapy"] but does not  
14 include surgery, the prescribing of drugs, the development of a

15 medical diagnosis of disease, injury or illness, the use of cauterization  
16 or the use of Roentgen rays or radium for diagnostic or therapeutic  
17 purposes.

18 Sec. 2. Subdivision (2) of section 20-66 of the general statutes, as  
19 amended by section 12 of public act 00-226, is repealed and the  
20 following is substituted in lieu thereof (*Effective the later of October 1,*  
21 *2000, or the date notice is published by the Commissioner of Public Health in*  
22 *the Connecticut Law Journal indicating that the licensing of athletic trainers*  
23 *and physical therapist assistants is being implemented by the commissioner*):

24 (2) "Physical therapy" means the evaluation and treatment of any  
25 person by the employment of the effective properties of physical  
26 measures, the performance of tests and measurements as an aid to  
27 evaluation of function and the use of therapeutic exercises and  
28 rehabilitative procedures, with or without assistive devices, for the  
29 purpose of preventing, correcting or alleviating a physical or mental  
30 disability. "Physical therapy" includes the establishment and  
31 modification of physical therapy programs, treatment planning,  
32 instruction, wellness care, peer review and consultative services, but  
33 does not include surgery, the prescribing of drugs, the development of  
34 a medical diagnosis of disease, injury or illness, the use of cauterization  
35 or the use of Roentgen rays or radium for diagnostic or therapeutic  
36 purposes.

37 Sec. 3. Subdivision (2) of subsection (a) of section 20-73 of the  
38 general statutes is repealed and the following is substituted in lieu  
39 thereof (*Effective October 1, 2005*):

40 (2) (A) The treatment of human ailments by physical therapy shall  
41 only be performed by a person licensed under the provisions of this  
42 chapter as a physical therapist. Except as otherwise provided in  
43 subparagraph (B) of this subdivision, such treatment may be  
44 performed by a licensed physical therapist without an oral or written  
45 referral by a person licensed in this state to practice medicine and  
46 surgery, podiatry, natureopathy, chiropractic or dentistry, or an  
47 advanced practice registered nurse licensed to prescribe in accordance

48 with section 20-94a or a physician assistant licensed to prescribe in  
49 accordance with section 20-12d, provided the licensed physical  
50 therapist (i) has practiced physical therapy for at least three out of the  
51 most recent six years of his or her clinical practice or earned a master's  
52 degree or higher in physical therapy from an accredited institution of  
53 higher education, (ii) requires any person receiving such treatment to  
54 disclose or affirmatively confirm the identity of such person's primary  
55 care provider or health care provider of record upon each initial visit  
56 for treatment without an oral or written referral, (iii) provides  
57 information to any person seeking such treatment regarding the need  
58 to consult with such person's primary care provider or health care  
59 provider of record regarding such person's underlying medical  
60 condition if the condition is prolonged or does not improve within a  
61 thirty-day period, and (iv) refers any person receiving such treatment  
62 to an appropriate licensed practitioner of the healing arts if, upon  
63 examination or reexamination, the same condition for which the  
64 person sought physical therapy does not demonstrate objective,  
65 measurable, functional improvement in any period of thirty  
66 consecutive days or at the end of six visits, if the visits are within a  
67 period of thirty consecutive days.

68 (B) In any case in which the licensed physical therapist does not  
69 meet the standards set forth in subparagraph (A) of this subdivision  
70 for treatment without a referral, such treatment shall only be  
71 performed upon the oral or written referral of a person licensed in this  
72 state or in a [bordering] state having licensing requirements meeting  
73 the approval of the appropriate examining board in this state to  
74 practice medicine and surgery, podiatry, natureopathy, chiropractic or  
75 dentistry, or an advanced practice registered nurse licensed to  
76 prescribe in accordance with section 20-94a or a physician assistant  
77 licensed to prescribe in accordance with section 20-12d. Nothing in this  
78 section shall prevent a physical therapist from providing wellness care  
79 within the scope of physical therapy practice to asymptomatic persons  
80 without a referral. Nothing in this section shall require an employer or  
81 insurer to pay for such wellness care.

82       Sec. 4. Subsection (b) of section 20-73 of the general statutes, as  
83       amended by section 15 of public act 00-226, is repealed and the  
84       following is substituted in lieu thereof (*Effective the later of October 1,*  
85       *2000, or the date notice is published by the Commissioner of Public Health in*  
86       *the Connecticut Law Journal indicating that the licensing of athletic trainers*  
87       *and physical therapist assistants is being implemented by the commissioner):*

88       (b) (1) The treatment of human ailments by physical therapy shall  
89       only be performed by a person licensed under the provisions of this  
90       chapter as a physical therapist or physical therapist assistant. Except as  
91       otherwise provided in subdivision (2) of this subsection, such  
92       treatment may be performed by a licensed physical therapist without  
93       an oral or written referral by a person licensed in this state to practice  
94       medicine and surgery, podiatry, natureopathy, chiropractic or  
95       dentistry, or an advanced practice registered nurse licensed to  
96       prescribe in accordance with section 20-94a or a physician assistant  
97       licensed to prescribe in accordance with section 20-12d, provided the  
98       licensed physical therapist (A) has practiced physical therapy for at  
99       least three out of the most recent six years of his or her clinical practice  
100       or earned a master's degree or higher in physical therapy from an  
101       accredited institution of higher education, (B) requires any person  
102       receiving such treatment to disclose or affirmatively confirm the  
103       identity of such person's primary care provider or health care provider  
104       of record upon each initial visit for treatment without an oral or  
105       written referral, (C) provides information to any person seeking such  
106       treatment regarding the need to consult with such person's primary  
107       care provider or health care provider of record regarding such person's  
108       underlying medical condition if the condition is prolonged or does not  
109       improve within a thirty-day period, and (D) refers any person  
110       receiving such treatment to an appropriate licensed practitioner of the  
111       healing arts if, upon examination or reexamination, the same condition  
112       for which the person sought physical therapy does not demonstrate  
113       objective, measurable, functional improvement in any period of thirty  
114       consecutive days or at the end of six visits, if the visits are within a  
115       period of thirty consecutive days.

116     (2) In any case in which the licensed physical therapist does not  
117 meet the standards set forth in subdivision (1) of this subsection for  
118 treatment without a referral, such treatment shall only be performed  
119 upon the oral or written referral of a person licensed in this state, or in  
120 a [bordering] state having licensing requirements meeting the  
121 approval of the appropriate examining board in this state, to practice  
122 medicine and surgery, podiatry, natureopathy, chiropractic or  
123 dentistry, or an advanced practice registered nurse licensed to  
124 prescribe in accordance with section 20-94a or a physician assistant  
125 licensed to prescribe in accordance with section 20-12d. Nothing in this  
126 section shall prevent a physical therapist from providing wellness care  
127 within the scope of physical therapy practice to asymptomatic persons  
128 without a referral. Nothing in this section shall require an employer or  
129 insurer to pay for such wellness care.

130     Sec. 5. Section 20-73a of the general statutes is repealed and the  
131 following is substituted in lieu thereof (*Effective October 1, 2005*):

132     (a) The Board of Examiners for Physical Therapists shall have  
133 jurisdiction to hear all charges of conduct that fails to conform to the  
134 accepted standards of the practice of physical therapy brought against  
135 any person licensed as a physical therapist and, after holding a  
136 hearing, written notice of which shall be given the person complained  
137 of, said board, if it finds such person to be guilty, may revoke or  
138 suspend such person's license or take any of the actions set forth in  
139 section 19a-17. Any proceedings relative to such action may be begun  
140 by the filing of written charges with the Commissioner of Public  
141 Health. The causes for which such action may be taken are as follows:  
142 (1) Conviction in a court of competent jurisdiction, either within or  
143 without this state, of any crime in the practice of his or her profession;  
144 (2) illegal, incompetent or negligent conduct in the practice of physical  
145 therapy or in the supervision of a physical therapist assistant; (3)  
146 aiding or abetting the unlawful practice of physical therapy; (4)  
147 treating human ailments by physical therapy without the oral or  
148 written referral by a person licensed in this state or in a [bordering]  
149 state having licensing requirements meeting the approval of the

150 appropriate examining board in this state to practice medicine and  
151 surgery, podiatry, natureopathy, chiropractic or dentistry if such  
152 referral is required pursuant to section 20-73, as amended by this act;  
153 (5) failure to register with the Department of Public Health as required  
154 by law; (6) fraud or deception in obtaining a license; (7) engaging in  
155 fraud or material deception in the course of professional services or  
156 activities; (8) failure to comply with the continuing education  
157 requirements of section 20-73b, as amended by this act; or (9) violation  
158 of any provision of this chapter, or any regulation adopted [hereunder]  
159 under this chapter.

160 (b) The clerk of any court in this state in which a person practicing  
161 physical therapy has been convicted of any crime as described in this  
162 section shall, immediately after such conviction, transmit a certified  
163 copy, in duplicate, of the information and judgment, without charge,  
164 to the Department of Public Health, containing the name and address  
165 of the physical therapist, the crime of which he has been convicted and  
166 the date of conviction. The hearing on such charges shall be conducted  
167 in accordance with the regulations adopted by the Commissioner of  
168 Public Health. Any person aggrieved by a final decision of said board  
169 may appeal [therefrom] from the decision as provided in section 4-183.  
170 Such appeal shall have precedence over nonprivileged cases in respect  
171 to order of trial. The Attorney General shall act as attorney in the  
172 public interest in defending against such an appeal. The board may  
173 petition the superior court for the judicial district of Hartford to  
174 enforce any action taken pursuant to section 19a-17.

175 Sec. 6. Section 20-73a of the general statutes, as amended by section  
176 16 of public act 00-226, is repealed and the following is substituted in  
177 lieu thereof (*Effective the later of October 1, 2000, or the date notice is*  
178 *published by the Commissioner of Public Health in the Connecticut Law*  
179 *Journal indicating that the licensing of athletic trainers and physical therapist*  
180 *assistants is being implemented by the commissioner):*

181 (a) The Board of Examiners for Physical Therapists shall have  
182 jurisdiction to hear all charges of conduct that fails to conform to the

183 accepted standards of the practice of physical therapy brought against  
184 any person licensed as a physical therapist or physical therapist  
185 assistant and, after holding a hearing, written notice of which shall be  
186 given to the person complained of, the board, if it finds such person to  
187 be guilty, may revoke or suspend such person's license or take any of  
188 the actions set forth in section 19a-17. Any proceedings relative to such  
189 action may be begun by the filing of written charges with the  
190 Commissioner of Public Health. The causes for which such action may  
191 be taken are as follows: (1) Conviction in a court of competent  
192 jurisdiction, either within or without this state, of any crime in the  
193 practice of such person's profession; (2) illegal, incompetent or  
194 negligent conduct in the practice of physical therapy or in the  
195 supervision of a physical therapist assistant; (3) aiding or abetting the  
196 unlawful practice of physical therapy; (4) treating human ailments by  
197 physical therapy without the oral or written referral by a person  
198 licensed in this state or in a [bordering] state having licensing  
199 requirements meeting the approval of the appropriate examining  
200 board in this state to practice medicine and surgery, podiatry,  
201 natureopathy, chiropractic or dentistry if such referral is required  
202 pursuant to section 20-73, as amended by this act; (5) failure to register  
203 with the Department of Public Health as required by law; (6) fraud or  
204 deception in obtaining a license; (7) engaging in fraud or material  
205 deception in the course of professional services or activities; [or] (8)  
206 failure to comply with the continuing education requirements of  
207 section 7 of this act; or (9) violation of any provision of this chapter, or  
208 any regulation adopted under this chapter.

209 (b) The clerk of any court in this state in which a person practicing  
210 physical therapy has been convicted of any crime as described in this  
211 section shall, immediately after such conviction, transmit a certified  
212 copy, in duplicate, of the information and judgment, without charge,  
213 to the Department of Public Health, containing the name and address  
214 of the physical therapist or physical therapist assistant, the crime of  
215 which the physical therapist or physical therapist assistant has been  
216 convicted and the date of conviction. The hearing on such charges shall  
217 be conducted in accordance with the regulations adopted by the

218 Commissioner of Public Health in accordance with chapter 54. Any  
219 person aggrieved by a final decision of the board may appeal  
220 [therefrom] from the decision as provided in section 4-183. Such appeal  
221 shall have precedence over nonprivileged cases in respect to order of  
222 trial. The Attorney General shall act as attorney in the public interest in  
223 defending against such an appeal. The board may petition the superior  
224 court for the judicial district of Hartford to enforce any action taken  
225 pursuant to section 19a-17.

226 Sec. 7. Section 20-73b of the general statutes is repealed and the  
227 following is substituted in lieu thereof (*Effective October 1, 2005*):

228 (a) [Each] Except as otherwise provided in this section, each  
229 physical therapist licensed pursuant to this chapter shall complete a  
230 minimum of twenty hours of continuing education during each  
231 registration period. For purposes of this section, registration period  
232 means the twelve-month period for which a license has been renewed  
233 in accordance with section 19a-88 and is current and valid. The  
234 continuing education shall be in areas related to the individual's  
235 practice. Qualifying continuing education activities include, but are  
236 not limited to, courses offered or approved by the Connecticut Physical  
237 Therapy Association.

238 (b) Each licensee shall obtain a certificate of completion from the  
239 provider of continuing education activities for all continuing education  
240 hours successfully completed. Each licensee shall maintain such  
241 written documentation for a minimum of three years following the  
242 license renewal date for which the activity satisfies continuing  
243 education requirements. Certificates of completion shall be submitted  
244 by the licensee to the Department of Public Health [upon the  
245 department's request] not later than forty-five days after a request by  
246 said department for such certificates. A licensee who fails to comply  
247 with the continuing education requirements may be subject to  
248 disciplinary action pursuant to section 20-73a.

249 (c) The continuing education requirements shall be waived for  
250 licensees applying for licensure renewal for the first time. The



251 department may, for a licensee who has a medical disability or illness,  
 252 grant a waiver of the continuing education requirements [for a specific  
 253 period of time] or may grant the licensee an extension of time in which  
 254 to fulfill the requirements, provided the licensee submits to the  
 255 Department of Public Health an application for waiver or extension of  
 256 time on a form prescribed by said department, along with a  
 257 certification by a licensed physician of the disability or illness and such  
 258 other documentation as may be required by said department. The  
 259 Department of Public Health may grant a waiver or extension for a  
 260 period not to exceed one registration period, except that said  
 261 department may grant additional waivers or extensions if the medical  
 262 disability or illness upon which a waiver or extension is granted  
 263 continues beyond the period of the waiver or extension and the  
 264 licensee applies to said department for an additional waiver or  
 265 extension.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	20-66(2)
Sec. 2	<i>the later of October 1, 2000, or the date notice is published by the Commissioner of Public Health in the Connecticut Law Journal indicating that the licensing of athletic trainers and physical therapist assistants is being implemented by the commissioner</i>	20-66(2)
Sec. 3	October 1, 2005	20-73(a)(2)

Sec. 4	<i>the later of October 1, 2000, or the date notice is published by the Commissioner of Public Health in the Connecticut Law Journal indicating that the licensing of athletic trainers and physical therapist assistants is being implemented by the commissioner</i>	20-73(b)
Sec. 5	<i>October 1, 2005</i>	20-73a
Sec. 6	<i>the later of October 1, 2000, or the date notice is published by the Commissioner of Public Health in the Connecticut Law Journal indicating that the licensing of athletic trainers and physical therapist assistants is being implemented by the commissioner</i>	20-73a
Sec. 7	<i>October 1, 2005</i>	20-73b

**PH**      **Joint Favorable Subst.**

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Public Health, Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal
Comptroller Misc. Accounts (Fringe Benefits)	GF - None	None	None

Note: GF=General Fund

#### **Municipal Impact:**

Municipalities	Effect	FY 06 \$	FY 07 \$
Various Municipalities	Potential Cost	See Below	See Below

### **Explanation**

While the bill permits certain physical therapists to treat patients without physician referral, state employee health plans explicitly require either pre-authorization or a referral for physical therapy. Therefore, no fiscal impact to the state as an employer will result from passage of this bill. It is similarly assumed that the majority of municipal employee health plans currently explicitly require physician referral and/or prior authorization of these services, or would seek to impose these restrictions upon passage of this bill. Therefore, it is anticipated that no appreciable municipal cost will result from its passage.

The bill makes failure to comply with continuing education requirements a cause for disciplinary action by the Board of Examiners for Physical Therapists. Per Section 19a-17 CGS, disciplinary action may include assessment of a civil penalty of up to \$10,000.

It also requires the Department of Public Health to provide forms for use by physical therapists when applying for a waiver from

continuing education requirements, or an extension of time to complete continuing education requirements. The agency will be able to do so without requiring additional resources.

**OLR Bill Analysis**

sHB 6767

**AN ACT CONCERNING PATIENT ACCESS TO PHYSICAL THERAPY****SUMMARY:**

This bill allows physical therapists meeting certain standards to treat patients directly, without referral from another health care practitioner. The bill specifies procedures the physical therapist must follow in treating patients directly. It specifies that "physical therapy" does not include surgery; drug prescribing; or the development of a medical diagnosis of disease, injury or illness.

The bill also (1) authorizes the Board of Examiners for Physical Therapists to take disciplinary action, including license suspension or revocation, against a physical therapist for failure to comply with continuing education requirements; (2) specifies acceptable continuing education activities; and (3) modifies the process for seeking a waiver from continuing education requirements.

EFFECTIVE DATE: October 1, 2005 for sections 1, 3 5, and 7; the later of October 1, 2000 or the date notice is published by the DPH commissioner in the Connecticut Law Journal that the licensing of athletic trainers and physical therapist assistants is being implemented for sections 2, 4, and 6.

**DIRECT ACCESS TO PHYSICAL THERAPISTS**

By law, physical therapist can only treat a patient referred to them by a physician, podiatrist, natureopath, chiropractor, dentist, advanced practice registered nurse, or physician assistant, except in the case of wellness care. A physical therapist can provide wellness care to anyone without symptoms of illness or injury, with or without referral from any of these health care providers. "Wellness care" means services related to conditioning and fitness, strength training, workplace ergonomics, or injury prevention.

This bill allows a licensed physical therapist to treat human ailments

by physical therapy without the oral or written referral of one of the health care providers listed above if the physical therapist:

1. has practiced physical therapy for at least three out of the most recent six years of his clinical practice or earned a master's degree or higher in physical therapy from an accredited institution of higher education;
2. requires the person receiving treatment to disclose or confirm the identity of the patient's primary care provider or provider of record upon the initial treatment without referral;
3. provides information to any person seeking such treatment concerning the need to consult with the person's primary care provider or provider of record regarding the person's underlying condition if it is prolonged or does not improve within 30 days; and
4. refers any person receiving the treatment to an appropriate licensed practitioner as listed above if, after examination or reexamination, the same condition for which the patient sought physical therapy does not show objective, measurable, functional improvement in any 30-day consecutive period or at the end of six visits, if the visits are within a 30-day period.

Under the bill, if the physical therapist does not meet these standards, the person may receive physical therapy treatment only after an oral or written referral from a licensed practitioner listed above from Connecticut or from a state with licensing requirements meeting the approval of the appropriate examining board in this state. Current law recognizes referrals from in-state practitioners and those in bordering states with licensure requirements meeting this state's approval.

## **CONTINUING EDUCATION**

The law requires licensed physical therapists to complete 20 hours of continuing education during each registration period (12 months) for purposes of annual license renewal. The bill specifies that qualifying continuing education activities include courses offered or approved by the Connecticut Physical Therapy Association.

Physical therapists completing continuing education activities must

get a certificate of completion from the provider of the continuing education. Currently, a physical therapist must submit a certificate of completion to the Department of Public Health (DPH) upon request. This bill requires submittal of the certificate within 45 days after DPH requests it.

By law, DPH can grant a waiver or time extension for completing continuing education requirements in the case of medical disability or illness. The bill requires the licensee to submit a waiver or extension application to DPH, a certification by a licensed physician of the disability or illness, and any other documentation DPH may require. The bill allows DPH to grant the waiver or time extension for up to one registration period, rather than for any time period. It can grant additional waivers or time extensions if the disability or illness continues beyond the waiver or extension period and the licensee applies to DPH for that additional period.

### **COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 21      Nay 5